

IN THE UNITED STATES DISTRICT COURT -2 P 12:43
FOR THE DISTRICT OF MASSACHUSETTS

HABEAS CORPUS
ACTION

DOCKET #

LEIGH M. OLSEN,
PETITIONER,

VS.

STEVEN O'BRIEN,
SUPT.N.C.C.I.,

KATHERINE DENNEHY
COMMISSIONER,
MASS.DEPT.OF CORR.

RESPONDENTS.

04-40178 FDS

AUGUST 23, 2004

PETITION FOR WRIT OF HABEAS CORPUS
AD SUBJICIENDUM AGAINST FALSE
IMPRISONMENT IN STATE
PRISON

INTRODUCTION:

The Petitioner, a state prisoner, is a victim of overt fraud and fraudulent concealment of the facts of being charged of violating state statutory laws, but NEVER BEING LEGALLY INDICTED FROM THE MIDDLESEX COUNTY GRAND JURY; the trial court was not a court of "COMPETENT JURISDICTION" over the Petitioner, NOR over the subject-matter, presented on the FATALLY DEFECTIVE INSTRUMENT(S); additionally, the judge NEVER personally "ISSUED" the warrants of commitment and the clerk of court NOR assistant clerks ISSUED THE "SENTENCING TRANSCRIPTS" required to "EXECUTE THE SENTENCES" and NO SEALS

Introduction (Continued)

OF AUTHENTICATION was affixed upon [A]NY judicial process as is MANDATORY BY FEDERAL AND STATE STATUTORY LAWS. Petitioner claims that he is entitled to the PROTECTION OF THE CONSTITUTIONAL WRIT OF HABEAS CORPUS AD SUBJICIENDUM.

JURISDICTION

Jurisdiction of this Court is invoked pursuant to THE FEDERAL SUPREMACY CLAUSES OF THE UNITED STATES CONSTITUTION, ART.1,§9,Cl.2 HABEAS CORPUS SHALL NOT BE SUSPENDED...; TITLE 28 §2254 et seq.; §2243. AUTHENTICATION of all FED. WRITS AND PROCESSES TITLE 1,§114; §1691 AFFIXING THE SEAL OF THE COURT PROCESSES BEFORE EXECUTION.

REASONS FOR GRANTING THE HABEAS CORPUS ORDER

1. LEIGH M. OLSEN, (W-64686), the Petitioner, CLAIMS that he is a victim of FRAUD AND FRAUDULENT CONCEALMENT (M.G.L.Ch.260,§12.), PERPETRATED BY THE OFFICERS OF LAW, in the EXECUTIVE (POLICE POWERS AND IN THE JUDICIAL BRANCH OF STATE/COUNTY government(s), wherein:

(A) THE PETITIONER VOLUNTARILY, AND ON HIS OWN VOLITION (without any foreknowledge or presence of police officers) WENT INTO THE POLICE STATION AND, ALTHOUGH HE WAS NOT TRATED AS A ACCUSED PERSON BY THE OFFICERS ON DUTY HE EXPLAINED TO THE OFFICERS THAT HE WAS A [P]RINCIPLE AS A PERPETRATOR OF ACTS WHICH WERE CRIMINAL IN NATURE.

(B) THE POLICE OFFICERS LISTENED TO THE PETI-

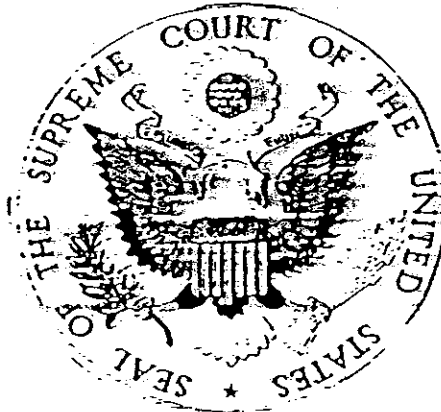
TIONER AND EXECUTED AN ARREST OF HIS PERSON, AND PLACED HIM INTO CUSTODY, AND SUBSEQUENTLY, THE PETITIONER WAS ESCORTED INTO THE DISTRICT COURT AND ARRAIGNED ON THE [UN]AUTHENTICATED CRIMINAL COMPLAINT.

(C) THE POLICE OFFICER WHO FILED THE COMPLAINT PURSUANT TO MASS.GEN.LAW, CHAPTER 218 §34, THE CLERK OF THE DISTRICT COURT FAILED TO AFFIX THE SEAL OF THE COURT ONTO THE CRIMINAL COMPLAINT AS IS MANDATORY BY STATUTORY LAWS OF THE U.S. CONGRESS (TITLE 28 USCS §1738); (M.G.L.Ch. 218 §4, §44) WHICH MANDATES THE CLERK TO AFFIX THE SEAL ON ALL PROCESSES BEFORE THE EXECUTION/ARRAIGNMENT OF THE PETITIONER IN THE DISTRICT COURT and BEFORE THE CONVEYANCE OF THE CASE TO THE GRAND JURY. THEREFORE, THERE WAS NO LEGAL PROCESS OF LEGAL PREREQUISITES ESTABLISHING "COMPETENT JURISDICTION OVER THE PETITIONER AS REQUIRED BY THE STATUTORY LAW(S) (MASS.GEN.LAW, CHAP. 263, §9.).

JURISDICTION:
(Cont.)

SUPREME COURT OF THE UNITED STATES

The Seal



28 USCS Rules—§ 2254 Cases

For we have held that any claim by a prisoner attacking the validity or duration of his confinement must be brought under the habeas sections of Title 28 of the United States Code. *Preiser v Rodriguez* 411 US 475, 500, 36 L Ed 2d 439, 93 S Ct 1827 (1973).

ORDERED that the respondent-warden file an answer in accordance with Rule 5, Rules—§ 2254 Cases, within 3 days herefrom and that a copy of the petition herein and of this order be served by the clerk of this Court by certified-mail on the respondent-warden and the attorney-general

Cite as 691 F.2d 15 (1982)

Betty J. WILLIAMS, a/k/a Tina
Williams, Petitioner, Appellant,

v.

Terry HOLBROOK, et. al., Respondent,
Appellee.

No. 82-1027.

United States Court of Appeals,
First Circuit.

Argued June 8, 1982.

Decided Sept. 23, 1982.

3. Habeas Corpus ⇔ 45.3(8)

The exhaustion requirement does not preclude a state prisoner from some reformulation of the claims made in state court and exhaustion requires only that substance of the habeas claim be first presented to state courts. 28 U.S.C.A. § 2254(b, c).

WILLIAMS v. HOLBROOK, 691 F.2d 15 (1982) Petitioner

correctly argues that the law of exhaustion requires only that her federal claims be first *presented* to the state courts so as to give them an opportunity to consider the constitutional issues; she need not demonstrate that those courts either addressed or decided them. *Smith v. Digmon*, 434 U.S. 332, 98 S.Ct. 597, 54 L.Ed.2d 582 (1978); *Kines v. Butterworth*, 669 F.2d 6, 12 (1st Cir. 1981), *cert. denied*, — U.S. —, 102 S.Ct. 2250, 72 L.Ed.2d 856 (1982).

REASONS FOR GRANTING THE PETITION

**PETITIONER'S GROUNDS FOR HABEAS
CORPUS RELEASE FROM FALSE IMPRISONMENT**

1. LEIGH OLSEN, (W-64686), the Petitioner, claims that he is a victim of FRAUD AND FRAUDULENT CONCEALMENT (MASS. GENERAL LAW, CHAPTER 260, §12.), perpetrated by the officers of law, in the EXECUTIVE (police) POWERS, and in the JUDICIARY BRANCH of State/County government(s), wherein,

(a) THE PETITIONER VOLUNTARILY, AND ON HIS OWN VOLITION (without any foreknowledge or presence of police officers) WENT INTO THE POLICE STATION AND ALTHOUGH HE WAS NOT TREATED AS AN ACCUSED PERSON BY THE OFFICERS ON DUTY, HE EXPLAINED TO THE OFFICERS THAT HE WAS A [P]RINCIPLE AS A PERPETRATOR OF ACTS WHICH WERE CRIMINAL IN NATURE.

(ED)

(b) THE POLICE OFFICERS LISTEN/TO THE PETITIONER AND ELECTED TO EFFECT AN ARREST OF THE PETITIONER AND DID PLACE THE PETITIONER INTO 'POLICE' CUSTODY.

(c) THERE WAS NO VALID CRIMINAL COMPLAINT LODGED BY THE POLICE OFFICER AGAINST THE PETITIONER, AS IS MANDATORY BY:

MASS.GEN.LAW, CHAP. 218, §33, §34, §35.
MASS.GEN.LAW, CHAP. 263, §4, §44.

(d) THE PETITIONER, BEING WITHOUT KNOWLEDGE OF THE LEGAL PROCESSES REQUIRED BY STATUTORY LAWS, WAS AT THE MERCY OF THE PROSECUTORS AND JUDGES.

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

2. PETITIONER WAS ARRESTED ON JUNE 26,1997, which TRIGGERED THE PROTECTION OF HIS FEDERAL AND STATE CONSTITUTIONAL RIGHTS TO A PROMPT AND SPEEDY TRIAL. HE WAS NOT ACCORDED A PROMPT AND SPEEDY TRIAL AS GUARANTEED BY HIS 6TH and 14th AMENDMENTS TO THE UNITED STATES CONSTITUTION, BECAUSE. . .

(a) THE PROSECUTOR INTENTIONALLY DELAYED THE PETITIONER'S PUBLIC TRIAL/AND DISPOSITION FROM THE CALENDAR PERIODS OF TIME FROM JUNE 26,1997 TO MAY 26,1998 (12 MONTHS (INORDINATE) DELAYS THEREABOUTS.

(b) THE TRIAL JUDGE (HON. MARIA LOPEZ) FAILED TO INFORM THE PETITIONER OF THE FACT, THAT SHE DID NOT HAVE "COMPETENT JURISDICTION"(MGL,Chap. 263,§9.) OVER THE PERSON NOR THE SUBJECT DUE TO THE LACK OF A SPEEDY TRIAL, AND EXCEEDING THE STATUTORY LIFE OF THE INDICTMENT(S) (MASS.GEN.LAW, Chap.277,§73.).

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT



3.

Supreme Court of the United States

UNITED STATES v ADDONIZIO

442 US 178, 60 L Ed 2d 805, 99 S Ct 2235

PAGE
811

[4] Under § the sentencing
court is authorized to discharge
a defendant if it con-
cludes that it "was without jurisdic-
tion to impose such sentence.

Habeas corpus has
long been available to attack convic-
tions' and sentences entered by a
court without jurisdiction. See, e.g.,
Ex parte Watkins, 3 Pet 193, 202-
203, 7 L Ed 650 (Marshall, C. J.).

the claimed error con-
stituted "a fundamental defect
which inherently results in a com-
plete miscarriage of justice." Hill v.
United States, 368 US 424, 428, 7 L
Ed 2d 417, 82 S Ct 468.

Dukette v. Perrin, 564 F.Supp. 1530.1983.

Habeas corpus relief is
available where indictment is so defective as to
deprive trial court of jurisdiction.

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

4.

FETTERLY v. PASKETT

997 FEDERAL REPORTER, 2d SERIES

PAGE

1300

[4] The very purpose of statutes such as MASS. GENERAL LAW, ch. 248, §§1-23, is to comply with the exacting requirements of the Constitution of the United States as articulated by the Supreme Court in . . .

However, the failure of a state to abide by its own statutory commands may implicate a liberty interest protected by the Fourteenth Amendment against arbitrary deprivation by a state.

See also Hernandez v. Ylst, 930 F.2d 714, 719 (9th Cir.1991) ("[F]ederal courts sitting in habeas can and will review an application of state law for alleged constitutional violations. Federal courts [,however,] are extraordinarily chary of entertaining habeas corpus violations premised upon asserted deviations from state procedural rules." (citations omitted)).

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE
FROM FALSE IMPRISONMENT

5. **BARKER v. WINGO**

Cite as 92 S.Ct. 2182 (1972)

92 SUPREME COURT REPORTER

The right to a speedy trial is generically different from any of the other rights enshrined in the Constitution for the protection of the accused.

Criminal Law:

Right to prompt inquiry into criminal charges is fundamental and duty of charging authority is to provide a prompt trial. U.S.C.A.Const. Amend. 6.

Criminal Law

State has duty to bring defendant to trial as well as duty of insuring that the trial is consistent with due process.

2190

A defendant has no duty to bring himself to trial; ²⁶ the State has that duty as well as the duty of insuring that the trial is consistent with due process.

the rule we announce today, which comports with constitutional principles, places the primary burden on the courts and the prosecutors to assure that cases are brought to trial.

Criminal Law

* Dismissal of indictment upon denial of right to speedy trial is the only possible remedy for such denial. U.S.C.A. Const. Amend. 6. *

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

MOORE v. ARIZONA
Cite as 94 S.Ct. 138 (1973)

6.

The state court was in fundamental error in its reading of *Barker v. Wingo* and in the standard applied in judging petitioner's speedy trial claim.

These factors are more serious for some than for others, but they are inevitably present in every case to some extent, for every defendant will either be incarcerated pending trial or on bail subject to substantial restrictions on his liberty."

But, because we are dealing with a fundamental right of the accused, this process must be carried out with full recognition that the accused's interest in a speedy trial is specifically affirmed in the Constitution." 407 U.S., at 533, 92 S.Ct., at 2193 (footnote omitted).

"the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment," *Klopfer v. North Carolina*, 386 U.S. 213, 223, 87 S.Ct. 988, 993, 18 L.Ed.2d 1 (1967),

DISPOSITIONS

Period Within Which Trial Must Be Brought If the [indictment, information or complaint] is not brought to trial within that period, no court of this state shall any longer have jurisdiction thereof, nor shall the untried [indictment, information or complaint] be of any further force or effect, and the court shall dismiss it with prejudice.

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

UNITED STATES v. MARION

Cite as 92 S.Ct. 455 (1971)

7.

Criminal Law

The Sixth Amendment speedy trial provision has no application until the putative defendant in some way becomes an "accused." U.S.C.A.Const. Amend. 6.

[In our view, however, the Sixth Amendment speedy trial provision has no application until the putative defendant in some way becomes an "accused,"

[Legislative efforts to implement federal and state speedy trial provisions also plainly reveal the view that these guarantees are applicable only after a person has been accused of a crime.

The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial" On its face, the protection of the Amendment is activated only when a criminal prosecution has begun and extends only to those persons who have been "accused" in the course of that prosecution.

The Amendment would appear to guarantee to a criminal defendant that the Government will move with the dispatch that is appropriate to assure him an early and proper disposition of the charges against him. "[T]he essential ingredient is orderly expedition and not mere speed." *Smith v. United States*, 360 U.S. 1, 10, 79 S.Ct. 991, 997, 3 L.Ed. 2d 1041 (1959).

PETITIONER'S GROUNDS FOR

HABEAS CORPUS

RELEASE FROM

FALSE IMPRISONMENT

DICKEY v. FLORIDA

Cite as 90 S.Ct. 1564 (1970)

8. **Criminal Law**

Stale claims are not favored by the law, and far less so in criminal cases. U.S.C.A.Const. Amend. 6.

Criminal Law

Right to a prompt inquiry into criminal charges is fundamental and duty of charging authority is to provide a prompt trial. U.S.C.A.Const. Amend. 6.

If the case for the prosecution calls on the accused to meet charges rather than rest on the infirmities of the prosecution's case, as is the defendant's right, the time to meet them is when the case is fresh. Stale claims have never been favored by

the law, and far less so in criminal cases. Although a great many accused persons seek to put off the confrontation as long as possible, the right to a prompt inquiry into criminal charges is fundamental and the duty of the charging authority is to provide a prompt trial.

Deliberate governmental delay designed to harm the accused, however, constitutes abuse of the criminal process. It lessens the deterrent value of any conviction obtained. And it very probably reduces the capacity of the accused to defend himself; unlike the prosecution, he may remain unaware that charges are pending and thus fail to take steps necessary to his defense.¹⁰ Accordingly, some of the interests protected by the Speedy Trial Clause can be threatened by delay

Thus, it may be that for the purposes of the clause to be fully realized, it must apply to any delay in the criminal process

considered the primary guarantee against bringing overly stale criminal charges."

But the minimum right of the accused to a speedy trial is preserved by the command of the Sixth Amendment,

We said in *Ewell, supra*, 383 U.S. at 120, 86 S.Ct. at 776, that the guarantee of a speedy trial "is an important safeguard * * * to limit the possibilities that long delay will impair the ability of an accused

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

GENERAL LAWS
OF
MASSACHUSETTS

9.

Judicial
Authentication
only by

The Seal
of the
Court

Seal and Officers of Court.

Seals upon Documents Use of Wax or Wafers

COMMONWEALTH
OF
MASSACHUSETTS
HAMPOEN SS
SUPERIOR COURT
CRIMINAL
DOCKET



A TRUE COPY
OF THE JUDICIAL AUTHENTICATION
IN WAX OR WAFERS
set by the Court of the
of the Superior Court of the
of Hampden to be taken on the
fifth day of February 19 90

[Signature]
ASS'T Clerk

The Seal
OF
AUTHENTICATION
Mandatory Authority

CONSTITUTION OF THE UNITED STATES

PETITIONER'S GROUNDS **ARTICLE VI** Art. 6

FOR HABEAS CORPUS

RELEASE FROM FALSE IMPRI-
SONMENT

Debts; supremacy; oath

10. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;

28 USCS § 1738

§ 1738. State and Territorial statutes and judicial proceedings; full faith and credit

The Acts of legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in their courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

(June 25, 1948, ch 646, § 1, 62 Stat. 947.)

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

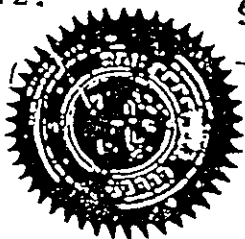
11. The Constitution of the Commonwealth of Massachusetts

Chapter VI
Oaths and Subscriptions
WRITS AND HABEAS CORPUS

V. ALL WRITS ISSUING OUT OF THE CLERKS OFFICE IN ANY OF THE COURTS OF LAW, SHALL BE IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS: THEY SHALL BE UNDER THE SEAL OF THE COURT FROM WHENCE THEY ISSUE: THEY SHALL BEAR TEST OF THE FIRST JUSTICE OF THE COURT TO WHICH THEY SHALL BE RETURNABLE, WHO IS NOT A PARTY, AND BE SIGNED BY THE CLERK OF SUCH COURT.

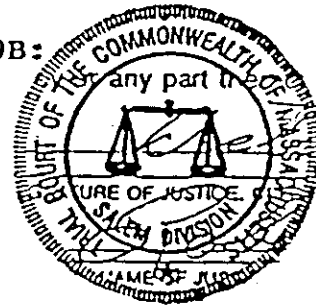
VII. THE PRIVILEGE AND BENEFIT OF THE WRIT OF HABEAS CORPUS SHALL BE ENJOYED IN THE COMMONWEALTH IN THE MOST FREE, EASY, CHEAP, EXPEDITIOUS AND AMPLE MANNER; AND SHALL NOT BE SUSPENDED BY THE LEGISLATURE, EXCEPT UPON THE MOST URGENT AND PRESSING OCCASIONS, AND FOR A LIMITED TIME NOT EXCEEDING TWELVE MONTHS.

12.



§9A: Title 28 USCS §1738;
Mass.Const.Pt.2nd c.6,art.5;
Mass.Gen.Law,c.4,§9A;§9B;
Mass.Gen.Law,c.9,§11;
Mass.Gen.Law,c.212,§26;
Mass.Gen.Law,c.213,§13;
Mass.Gen.Law,c.218,§35;§4;§44;
Mass.Gen.Law,c.233,§13A;
Mass.Gen.Law,c.233,§76;
Mass.Gen.Law,c.279,§43;

§9B:



13.

Petitioner claims that the LAW OF THE LAND ruled by the UNITED STATES DISTRICT COURTS, and invoked into [t]his Court's Jurisdiction , held, IN RELEVANT PORTIONS TO [t]his case: BREWER v. SIBLEY 54 Mass. 175, 13 Metc. 175:

"DEWEY, J. THE OMISSION TO AFFIX A PROPER SEAL TO A WRIT (or process) ISSUING FROM THIS COURT, IS SUCH ERROR AS WILL ABATE (abort and nullify) THE WRIT (or process) IF THE OBJECTION BE PROPERLY TAKEN. Hall v. Jones. 9 Pick 446."

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT



OFFICIAL OPINIONS

FROM THE

14.

Supreme Judicial Court
of Massachusetts

Authentication

UNION SAVINGS BANK *v.* CAMERON.

[319 Mass.] 235 February 28, 1946

agm

236 SPALDING, J. It is undoubtedly true, as the plaintiff argues,

If the return is false, the remedy of the party injured is against the officer. *Slayton v. Chester*, 4 Mass. 478, 479. *Davis v. Putnam*, 5 Gray, 321, 328. *Lowery v. Caldwell*, 139 Mass. 88, 89.

* the foundation of the action and is the process by which the defendant is brought into court. It is

to us, that the consideration, that a particular written document constitutes the basis of the jurisdiction of a court,

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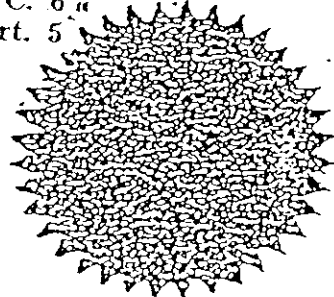
A writ, although easily obtainable, is more than a mere piece of paper. It must conform to requirements provided by law. Constitution, Part II, c. 6, art. 5.

OATHS, SUBSCRIPTIONS, ETC.

Pt. 2, C. 6, art. 5

Art. V. Form and execution of writs

ART. V. All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts: they shall be under the seal of the court from whence they issue: they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.



PETITIONER'S
 GROUNDS FOR
 HABEAS CORPUS
 RELEASE FROM
 FALSE IMPRI-
 SONMENT

**ILLUSTRATION ON [KEY] ELEMENTS
 FOR AUTHENTICATION OF INDICTMENT(S)
 REQUIRED BY LAW BEFORE COMPETENT JURISDICTION
 CAN BE ESTABLISHED UPON THE TRIAL COURT PROCEEDINGS
 PROCEEDINGS IN CRIMINAL CASES**

MASS. GEN. LAW, CHAPTER 277

COMMONWEALTH OF MASSACHUSETTS

15.

SUFFOLK, SS.

At the SUPERIOR COURT DEPARTMENT of the TRIAL COURT, begun and holden at the City of Boston, within and for the County of Suffolk, for the transaction of criminal business, on the first Monday of ~~1987~~, in the year of our Lord one thousand nine hundred and eighty ~~1987~~

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present that

on ~~1987~~, 1987, not being authorized by Chapter 94C of the General Laws of Massachusetts, did unlawfully, knowingly and intentionally possess with intent to distribute a certain controlled substance, to wit: heroin, a Class A controlled substance under the provisions of Section 31 of said Chapter

94C.

BE BILL.

James M. H. King
 Assistant District Attorney.

Lawrence J. Rigg
 Foreman of the Grand Jury.

05 ~~1987~~ / 86 ~~1987~~

[ENDORSEMENTS THERON]

**"A TRUE BILL,"
 SIGNED BY
 FOREPERSON
 OF GRAND
 JURY
 &
 PROSECUTOR**

I hereby certify that the foregoing is a true copy of the record of the Superior Court Department of the Trial Court, for the Transaction of Criminal Business.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of said Superior Court, at Boston aforesaid, this ~~1987~~ day of ~~1987~~ in the year of our Lord one thousand nine hundred and eighty ~~1987~~



**THE REQUIRED
 [J]URAT
 BY THE CLERK
 OF SUPERIOR
 COURT**

**THE (GOLDEN) WAFER
 SEAL AFFIXED BY THE
 CLERK OF COURT (THE KEEPER OF THE SEAL OF THE COURT)**

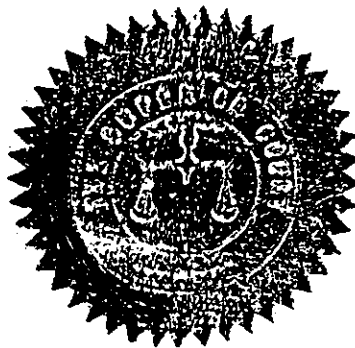
John Hunter
 Assistant Clerk.

EXHIBIT

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

16.

The Seal of the Court



COURTS AND JUDICIAL OFFICERS

Criminal jurisdiction

Orders or decrees

AVERY v. KANE GAS LIGHT AND HEATING COMPANY
Cite as 403 F.Supp. 14 (1975)

17

The printed form containing the printed word "SEAL" or "L.S." is a trap for the unwary as is dramatically demonstrated by the instant case."

However, no person should be deemed to have sealed a document where the word 'SEAL' or 'L.S.' is on a form printed document designed and used for the convenience of the

..."

19.

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

United States Court of Appeals
For the First Circuit

17.

CELANESE CORP. OF AMERICA v. VANDALIA WAREHOUSE CORP.

1180

424 FEDERAL REPORTER, 2d SERIES 1176

We are therefore compelled to consider this fustian objection and conclude that because of the deficiency of the attempted certification, this document was not properly authenticated and should not have been admitted into evidence.

[9] Rule 44 of the Federal Rules of Civil Procedure governs proof of official documents such as Exhibit 15. That rule contains specific standards for authentication of domestic records in paragraph (a) (1) as well as the further incorporation of existing federal and state law in paragraph (c).³ In this case, the absence of any appropriate seal from this exhibit precludes compliance with the procedures established in Rule 44(a) (1). See Van Cedarfield v. Laroche, 252 F.2d 817, 820-821 (1st Cir. 1958). In addition, Celanese has disclosed no statutory or common law rule, federal or state, which would dispose of the need of authentication as a requisite to the admis-

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

sion of a copy of an official document. Cf., *e. g.*, 28 U.S.C. §§ 1732(b), 1733(b); Mullican v. United States, 252 F.2d 398, 400-404 (5th Cir. 1958); Yaich v. United States, 283 F.2d 613, 617 (9th Cir. 1960). Nor has Celanese produced any support for the authenticity of the certification of Exhibit 15 by the "Certifying Officer" without the affixation of the appropriate governmental seal of which judicial notice could be taken. See Smith v. United States, 30 U.S. (5 Pet.) 292, 300-301, 8 L.Ed. 130; cf. Ill.Rev. Stat., Ch. 51, §§ 16, 18 (1969); see also V, VII Wigmore, Evidence, §§ 1679, 2164 *et seq.* (1940); McCormick, Law of Evidence, § 186, p. 398 (Hornbook Series, 1954); Preliminary Draft of Proposed Rules of Evidence for the United States District Courts, Rule 9-02. The lack of any seal therefore barred the authentication of Exhibit 15 by the purported certification contained thereon. The document was not entitled to admission into evidence on that basis and it was error to have admitted it. *

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

OFFICIAL OPINIONS

FROM THE

22.

Supreme Judicial Court
of Massachusetts

FISHER v. MCGIRR
(1854) 67 MASS.1(1 GRAY 1),
61 Am.DEC.381.

" . . . WHERE IT APPEARED ON THE FACE OF THE
(PROCESS) WAS WHOLLY VOID, THE COMMITMENT WAS
WITHOUT AUTHORITY AND THE PARTY COMMITTED WAS
ENTITLED TO BE DISCHARGED FROM HIS IMPRISON-
MENT UPON HABEAS CORPUS . . . "

JONES v. ROBBINS
(1857) 74 MASS.329

" IF A WARRANT OF COMMITMENT WAS ISSUED BY
A COURT OF SPECIAL AND LIMITED JURISDICTION
EXCEED THE AUTHORITY CONFERRED, AND ISSUE A
WARRANT OF COMMITMENT, THE JUDGMENT IS VOID, AND
NOT MERELY VOIDABLE, AND THE COMMITMENT UNDER
IT IS ILLEGAL, AND MAY BE INQUIRED INTO ON
HABEAS CORPUS, AND IF THE COMMITMENT IS WRONG,
THE PARTY MAY BE DISCHARGED."

SUFFOLK AND NANTUCKET.

MARCH TERM 1857.

Jones v. Robbins.

but if a court of special and limited jurisdiction exceed
the authority conferred, and issue a warrant of commitment, the
judgment is void, and not merely voidable, and the commit-
ment under it is illegal, and may be inquired into on habeas
corpus, and if the commitment is wrong, the party may be dis-
charged.

PETITIONER'S GROUNDS FOR
HABEAS CORPUS RELEASE FROM
FALSE IMPRISONMENT

23.

COBLYN v. KENNEDY'S INC.,
359 MASS.319
(Suffolk, April 15, 1971)

[APPLICABLE ONLY IN PORTIONS CITED BELOW[]

"FALSE IMPRISONMENT"
Judicially Defined

ON PAGE 321:

"WE THINK IT IS CLEAR THAT THERE WAS SUFFICIENT EVIDENCE OF [UN]LAWFUL RESTRAINT, TO SUBMIT THIS QUESTION TO THE JURY."

"HOWEVER, "THE LAW IS WELL SETTLED THAT 'ANY GENERAL RESTRAINT IS SUFFICIENT TO CONSTITUTE AN IMPRISONMENT . . . "

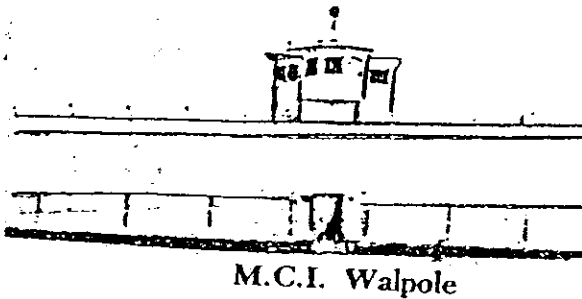
" * * * AND 'ANY DEMONSTRATION OF PHYSICAL POWER WHICH, TO ALL APPEARANCES, CAN BE AVOIDED ONLY BY SUBMISSION, OPERATES AS EFFECTUALLY TO CONSTITUTE AN IMPRISONMENT, IF SUBMITTED TO, AS IF ANY AMOUNT OF FORCE HAD BEEN EXERCISED."

"IF A MAN IS RESTRAINED OF HIS PERSONAL LIBERTY BY FEAR OF A PERSONAL DIFFICULTY, [T]HAT AMOUNTS TO A FALSE IMPRISONMENT, WITHIN THE LEGAL MEANING OF SUCH TERM."

If justice is the guardian of liberty, who are the guardians of justice?

FALSE IMPRISONMENT

NOEL v. TOWN OF PLYMOUTH, MASS.
Cite as 895 F.Supp. 346 (D.Mass. 1995)



M.C.I. Walpole

24.

2. False Imprisonment

[12, 13] The tort of false imprisonment consists in the (1) intentional and (2) unlawful (3) confinement of a person, (4) directly or indirectly (5) of which the person confined is conscious or is harmed by such confinement. *Santiago v. Fenton*, 891 F.2d at 383, citing *Wax v. McGrath*, 255 Mass. 340, 342, 151 N.E. 317, 318 (1926).

PRAYER FOR HABEAS CORPUS RELEASE
FROM FALSE IMPRISONMENT
IN STATE PRISON

WHEREFORE, THE PETITIONER RESPECTFULLY MOVES
THIS HONORABLE JUDGE, TO ISSUE THE GREAT CONSTITUTIONAL
WRIT OF HABEAS CORPUS AD SUBJICIENDUM, FORTHWITH, IN
THE INTEREST OF JUSTICE.

~~OCTOBER 13, 2003~~

~~MAY 3, 2004~~


AUGUST 23, 2004

EXHIBITS

ATTACHED HERETO

PURSUANT TO M.G.L. CHAP. 248, §3.

I, LEIGH OLSEN, THE PETITIONER, PRO SE, DO HEREBY CERTIFY THAT [ALL] FACTS AND LAWS PRESENTED HEREINABOVE, ARE TRUE TO THE BEST OF MY ABILITIES.


LEIGH OLSEN (W-64686)

NCCI P.O. BOX 466
GARDNER, MA 01440

CIVIL COVER SHEET 40178

This JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS PETITIONER

LEIGH M. O'Brien

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

LEIGH M. O'Brien
NCCI P.O. BOX 466
GARDNER, MA 01440

DEFENDANTS RESPONDENTS

STEVEN O'BRIEN, SUPT. NCCI @ GARDNER, MA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

ATTORNEY GENERAL
STATE OF MASSACHUSETTS
BULFINCH PLACE
BOSTON, MA 02108

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

PETITION FOR WRIT OF HABEAS CORPUS (28, §§2241, 2254) AGAINST FALSE IMPRISONMENT IMPOSED BY A COURT WITHOUT JURISDICTION OVER PETITIONER.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

NONE

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ YES ☐ NO

VIII. RELATED CASE(S)

(See instructions):

IF ANY

NONE

JUDGE

NONE

DOCKET NUMBER

NONE

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY